

United States District Court
for the
Southern District of New York
Related Case Statement

Full Caption of Later Filed Case:

Daily News, LP, Chicago Tribune Company, LLC,
Orlando Sentinel Communications Company, LLC,
Sun-Sentinel Company, LLC, San Jose
Mercury-News, LLC, DP Media Network, LLC, ORB
Publishing, LLC, and Northwest Publications, LLC

Plaintiff

Case Number

vs.

Microsoft Corporation, OpenAI, Inc., OpenAI
LP, OpenAI GP, LLC, OpenAI, LLC, OpenAI
OpCo, LLC, OpenAI Global, LLC, OAI
Corporation, LLC, and OpenAI Holdings, LLC

Defendant

Full Caption of Earlier Filed Case:

(including in bankruptcy appeals the relevant adversary proceeding)

The New York Times Company

Plaintiff

Case Number

vs.

1:23-cv-11195-SHS

Microsoft Corporation, OpenAI, Inc., OpenAI
LP, OpenAI GP, LLC, OpenAI, LLC, OpenAI
OpCo, LLC, OpenAI Global, LLC, OAI
Corporation, LLC, and OpenAI Holdings, LLC

Defendant

Status of Earlier Filed Case:

☐

Closed

(If so, set forth the procedure which resulted in closure, e.g., voluntary dismissal, settlement, court decision. Also, state whether there is an appeal pending.)

☒

Open

(If so, set forth procedural status and summarize any court rulings.)

The New York Times filed the lawsuit against Microsoft and OpenAI on Dec. 27, 2023, bringing claims for copyright infringement; removal of copyright management information under the Digital Millennium Copyright Act; unfair competition by misappropriation; and trademark dilution, all relating to Defendants' generative artificial intelligence products. On Jan. 2, 2024, the Court accepted the case as related to the "Authors Guild Action" (Case No. 23-cv-08292) filed by a class of copyright owners against the same Defendants. On Jan. 22, 2024, the Court consolidated for pre-trial purposes the Authors Guild Action with the "Alter Action" (Case No. 23-cv-10211), and on Feb. 6, 2024, with the "Basbanes-Gage Action," (Case No. 24-cv-00084). The three class actions allege direct and contributory copyright infringement claims against the Defendants on similar facts.

Explain in detail the reasons for your position that the newly filed case is related to the earlier filed case.

This lawsuit is brought on behalf of eight commonly owned newspapers, including The New York Daily News and The Chicago Tribune. The Plaintiffs assert the same claims against the same Defendants in The New York Times lawsuit. The instant complaint differs in that it asserts an additional trademark dilution claim under N.Y. Gen. Bus. Law § 360-l and contains additional allegations specific to the Plaintiffs. The claims arise from substantially similar acts, including the Defendants' unauthorized use of Plaintiffs' content to train large language models and power generative artificial intelligence products. Accordingly, the basic legal theories, sources of liability, relief requested, basis of jurisdiction, and factual allegations regarding Defendants' conduct brought in The New York Times case are the same. We expect that there will be substantial overlap between the legal and factual issues between the cases, and designating these cases as related would avoid duplicative efforts, expenses, and burdens on the Court. Counsel for Plaintiffs here are also representing The New York Times as co-counsel.

Signature: /s/ Steven Lieberman

Date: April 30, 2024

Rothwell Figg Ernst & Manbeck, P.C.

Firm: _____